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Public Hearing Date: May 15, 2007
Land Use Action Date: June 5, 2007
Board of Aldermen Action Date: June 18, 2007
90-Day Expiration Date: August 13, 2007

TO: Board of Aldermen

FROM: Michael Kruse Director of Planning and Development
Nancy Radze Chief Planner
Jean Fulkerson, Principal Planner

DATE: May 11, 2007

SUBJECT: **#106-07 BETH MENACHEM CHABAD** petition for a **SPECIAL PERMIT/SITE PLAN APPROVAL** to waive parking requirements associated with the demolition and construction of a new Synagogue facility at **349 DEDHAM STREET**, Ward 8, on land known as Sec 83, Blk 36A, Lot 1, containing approximately 33,697 sf of land in a district zoned **SINGLE RESIDENCE 1**.

CC: Mayor David B. Cohen

The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision making process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information that will be presented at or after the public hearing that the Land Use Committee will consider in its discussion at a subsequent Working Session.

EXECUTIVE SUMMARY

The petitioner, Beth Menachem Chabad, is proposing to demolish the existing single-family farmhouse and construct a 12,214 s.f., one-story facility, with a nine space parking facility, at 349 Dedham Street. The facility would accommodate up to 203 worshippers. The petitioner is seeking a special permit for a parking waiver of 61 parking spaces and a waiver to parking lot lighting requirements to allow for the lighting levels in the parking facility to be below 1.0 ft. candle. The Chief Zoning Code Official also identified an encroachment of exterior stairs into the side setback and an FAR that exceeds what is permitted under Section 30-15 of the Revised Zoning Ordinance.

I. BACKGROUND

Beth Menachem Chabad is a Jewish Orthodox congregation and a member of the Chabad-Lubavitch movement. Beth Menachem Chabad is currently located at 229 Dedham Street in Newton Highlands, next to Countryside Elementary School. The existing facility is a two-story 2,500 structure, which was formerly a single-family residence.

In September of 2003, Chabad-Lubavitch Inc. petitioned the Board of Alderman for a special permit (#319-03), for parking waivers from off-street parking requirements for Beth Menachem Chabad at its current location at 229 Dedham Street. The petition failed to carry in the Land Use Committee, and was denied by the Board of Alderman in December 2003. Chabad-Lubavitch appealed the denial. The Board of Aldermen and Chabad-Lubavitch then entered into settlement negotiations, which resulted in the approval of the special permit by the Board of Alderman in May 2004 (*SEE ATTACHMENT "A "*). Upon approval of the special permit Chabad-Lubavitch dropped its appeal. Members of Beth Menachem Chabad do not drive on the Sabbath, which is a period from sundown Friday to sundown Saturday, every week or on Jewish holidays. On those occasions when members drive to Chabad, such as for lecture events or life-cycle events, the members, as specified within Board Order #319-03, are permitted by the City of Newton to park their vehicles in the City's parking lot at nearby Countryside Elementary School.

The congregation currently has about 70 families as members and is severely constrained for space in its current location, which is limited by building code to an occupancy of 75 persons. The full membership cannot attend holiday services because of the small size of the structure. As such, they are seeking to relocate.

Beth Menachem Chabad is proposing to demolish the existing structure on the subject site and construct a new 12,214 s.f. structure. In October 2004, the previous owner of 349 Dedham Street applied to the Newton Historical Commission to demolish the existing single-family dwelling. The structure was determined to be "Historically significant" and the Newton Historical Commission determined that the structure was to be "Preferably preserved," which prevented demolition of the structure for one year. Five months later, in February 2005, Chabad-Lubavitch purchased the property and has held title to it ever since. The demolition delay on the structure ended in October 2005. The petitioner now intends to demolish the existing single-family dwelling and build a new Chabad. Once complete, the petitioner plans to relocate its religious activities and operations from its current location at 229 Dedham Street to the new facility. The petitioner has not stated its intentions for its existing property at 229 Dedham Street, but is expected to provide this information at the public hearing.

II. ELEMENTS OF THE PETITION

Beth Menachem Chabad's proposal calls for the construction of a 12,214 s.f. building that will accommodate religious services, special functions, office space, kitchen facilities, and mikvah, on a corner lot at Rachel Road and Dedham Street. The proposed building qualifies as a one-story building with a basement. A covered porch will overlook Rachel Road. The site will be accessed by a circular driveway off of Dedham Street and includes a parking facility for 9 vehicles, including one handicap space.

The congregation will use the subject site as a gathering location for religious prayer on the Sabbath, which is a period from sundown Friday to sundown Saturday, every week, as well as religious services Sunday mornings and on religious holidays during the year. In addition, the site will be used for weekday morning prayer and "religious service and class or study session" in the evenings. Periodically, the Chabad will be used for large life-cycle events such as Bat and Bar Mitzvahs, weddings, and funerals.

Based on the maximum capacity of the proposed Chabad and the requirements of the Revised Zoning Ordinance, the uses within the facility require a total of 70 parking spaces. The petitioner is seeking a special permit to waive 61 of these required spaces, stating that Orthodox Jewish practice requires walking (i.e. prohibits use of vehicles) during the Sabbath prayer services, and on religious holidays during the year. The petitioner believes that there will be few vehicles parked at the site on the days of the most intensive use and therefore believes it is reasonable to provide only nine of the required 70 parking spaces in the front of the structure. On those occasions when events at the existing Chabad at 229 Dedham Street generate more than five or six cars, congregants are directed to use the parking lot at Countryside School. The Chabad has an arrangement with the City of Newton to allow use of the Countryside lot and expects to continue this arrangement once the congregation has moved to the proposed new facility at 349 Dedham Street.

ZONING RELIEF BEING SOUGHT

Based on the Chief Zoning Code Official's written determination, dated March 23, 2007 (SEE ATTACHMENT "B"), the petitioner is seeking relief from or approvals through the following sections of the Zoning Ordinance:

- ***Section 30-9(d)(10)&(13), 30-19(d), 30-19(m) approval of waiver to allow applicant to reduce required parking from 70 spaces to 9 space for a total waiver of 61 spaces***
- ***Section 30-90(1), 30-19(m) approval of waiver to allow applicant to reduce parking lot lighting level below 1 ft.-candle***
- ***Section 30-23 for approval of site plan***
- ***Section 30-21(a)(2)a)&b) and 30-24 for approval of special permit.***

The Chief Zoning Code Official also notes that the proposed structure does not comply with the following dimensional controls in Section 30-15, Table 2:

- ***The multi-level roof-covered stairs from the basement to the upper level encroach into the 20 ft required side setback, resulting in a 15 ft side setback for that portion of the structure***
- ***The external stairs and associated walls leading from the parking area level also encroach into the side yard, resulting in an approximately 10 ft setback;***
- ***The structure has an FAR OF 0.36, which exceeds the maximum permitted FAR of 0.2.***

The above relief cannot be granted by the Board of Aldermen through a Special Permit Instead the petitioner may either chose to voluntarily seek variances for the Zoning Board of Appeals, or ask the Commissioner of Inspectional Services to grant them waivers, through the "Dover Amendment" (MLG c.40A, Section 3)

IV. SIGNIFICANT ISSUES FOR CONSIDERATION

In reviewing this petition, the Board of Aldermen should consider the following:

- > Whether the proposed waiver of 61 parking spaces will have an adverse impact on the surrounding residential neighborhood;*
- > Whether literal compliance with the parking ordinance is impracticable due to the nature of the use, or the location, size, width, depth, shape, or grade of the lot, or that such waivers would be in the public interest or in the interest of safety or protection of environmental features; and*
- > Whether the proposed waiver to allow reduced lighting levels in the parking lot is appropriate without adversely impacting pedestrian or vehicular visibility and safety within the parking facility.*

V. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

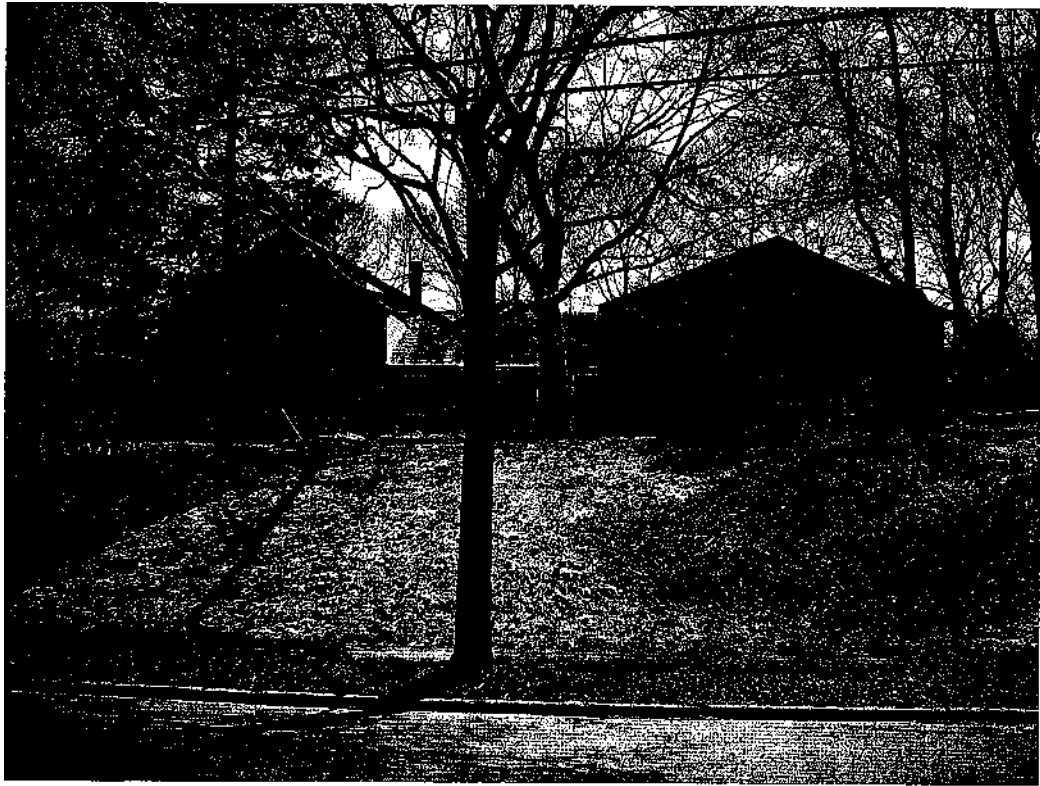
A. Existing Site Conditions

The 33,697 sq. subject property is a corner lot located at the intersection of Dedham Street and Rachel Road. The existing farmhouse will be demolished to make way for the new structure. A demolition delay placed on property by the Newton Historical Commission was in effect for one year beginning October 2004.

The site slopes up rapidly from Dedham Street and sits significantly above Rachel Road. The site includes a large stone wall along the front of the property on Dedham Street, and the east side of the property and has a number of mature existing trees.



349 Dedham Street, Existing Conditions



Subject Site as Viewed from Rachel Road



View of Rachel Road from Dedham Street

B. Neighborhood

The subject property is located in South Newton, within a single-family residential neighborhood. The majority of the homes in the vicinity of the subject lot were built in the mid-1960s; all on lots over 25,000 sf. in size. Most of these homes were built in a contemporary style, featuring split levels, basement garages, and simple roof systems. There is, however, a small number of historic farmhouse structures, similar to the one on the subject lot, in a two block area of Dedham Street that date from the 19th century or earlier.

VI. TECHNICAL ANALYSIS

A. Land Use

The proposed religious use is allowed "by-right" and is subject to the exemptions of MGL c.40A, Section 3 (also known as the "Dover Amendment").

The submitted plans for the Chabad include a sanctuary and social hall that when combined could provide a maximum sanctuary seating capacity of 203 seats. Functions taking place in the sanctuary and social hall at seated tables would allow a maximum capacity of 176, but the two activities must occur separately as they use the same floor space. The lower level (basement) will contain two children's activity rooms, mechanical and storage rooms, and men's and women's mikvah rooms. The upper floor (ground level) will contain the sanctuary and social halls, lobby, offices, conference and coatrooms, and restrooms and kitchen facilities. There is also a covered porch that overlooks Rachel Road. The total size of the structure is 12,214 s.f., and the size of the footprint is 8,775 s.f.

The Planning Department is concerned that the anticipated level of activity and intensity of the proposed use will be significantly higher, particularly at certain times, than that associated with adjacent single-family residences. Although the use is "protected," M.G.L., Chapter c.40A, Section 3 states that such uses may be subject to reasonable regulations concerning "the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements." In addition, the parking requirements not only assure that vehicles can be safely stored off public streets, but is also a means to help guide the density of development in conjunction with the other density controls such as setback requirements, F.A.R., etc. *(A more detailed discussion of parking and traffic is covered in Section VI. C. of this memo.)*

B. Dimensional Controls (Section 30-15)

The following chart illustrates how the proposal compares to the dimensional requirements in the SR1 District.

349 Dedham Street SRI Zoning Analysis	Single Family Residence	Ordinance Single Use Institution	Proposed Single Use Institution
Min. Lot Size	25,000 s.f.	25,000 s.f.	33,697 s.f.
Min. Frontage	140 ft.	NA	360 ft.
Setback			
Front	40 ft.	40 ft.	40.2 ft.
Side	20 ft.	20 ft.	10ft.*
Rear	25 ft.	25 ft.	25 ft.
FAR	.20	.20	.36*
Max. Bldg. Height	30 ft.	36 ft.	24.2 ft.
Max. # of Stories	2.5	3	1
Lot Coverage	15%	30 %	26%
Open Space	70%	50%	51%

**Requires relief*

The overall size of the structure exceeds the maximum permitted Floor Area Ratio for Single Use Institutions in the Single Residence 1 Zoning District. There is no waiver available through Special Permit for the excess FAR. In addition, the Chief Zoning Code Official noted that portions of the structure on the east side of the site are encroaching into the required 20 ft. side setback. These include external stairs from the basement level to the ground level and the upper level, which include a retaining wall structure, columns, and roof, placed approximately 15 ft. from the side lot line. On the same side of the structure are stairs leading into the parking lot and a new retaining wall connected to an existing stone wall along the side lot line; these stairs and walls are approximately 10 ft. from the side property line. The City's Zoning Ordinance accommodates bulkheads and steps within setbacks, but not major building components or related structures.

In all other respects, the structure meets the requirements of the dimensional controls established in Section 30-15, Table 2.

C. Parking Requirements (Section 30-19)

The following chart illustrates how the proposal meets the applicable parking requirements for the parking facilities related to the proposed synagogue:

349 Dedham Street Parking Analysis	Ordinance	Proposed
Min. # of parking stalls	1 per 3 seats = 67 1 per 250 sf office = 3 total spaces = 70	9 total
Setbacks SRI Zone		
Front	40 ft.	48.9 ft.
side	20 ft.	21.3 ft.
rear	25 ft.	100+ ft.
Min. stall dimensions	9 x 19 ft.	9 x 19 ft.
Maneuvering Aisle Width???	24 ft.	26 ft.
Entrance/Exit Drives	20-24 ft.	20 ft.
Handicap Stalls	1	1
Bicycle	1 per 10 parking stalls = 1	2

As shown in the table above, the petitioner is proposing to provide 9 parking spaces on site, and as such is seeking a waiver of 61 parking spaces. The petitioner submitted a Parking Analysis (*SEE ATTACHMENT "C"*) which estimates the parking demand of a range of events likely to take place at the Chabad. During regular Sabbath religious services on Friday evening and Saturday morning, the parking analysis states that the proposed Chabad will not generate in excess of nine vehicles, and that those 9 vehicles will park overnight in the Chabad parking facility. An exception to this statement is Sunday morning services, to which some congregants walk and some drive. If the service generates more than 15 vehicles then the petitioner proposes to use the parking lot at the Countryside Elementary School (at 191 Dedham Street).

On the occasion of religious holidays the petitioner again asserts that vehicle use is not permitted and that when services are at or near capacity (203 persons), the parking study indicates that the nine (9) vehicle lot at the Chabad will be full, but does not reference any additional vehicles. The petitioner estimates that occasional educational events and life cycle events (Bar and Bat mitzvahs, weddings, funerals, etc.) will generate the most parking demand, when between 25 to 175 people may attend, generating 15-50 vehicles. At those times, the petitioner proposes to use the parking lot at the Countryside Elementary School.

It appears from the parking analysis that for events attracting between 1-15 cars, the congregation will use it's on-site parking facility in combination with parking on Rachel Road or other adjacent streets, to accommodate their parking needs. For events expected to generate more than 15 vehicles, then the Countryside Elementary School lot will be used.

The Planning Department has several concerns with the parking analysis. First, the parking arrangement with the City at Countryside Elementary School is convenient for the Chabad's current location at 229 Dedham Street, but is much less convenient for the proposed location at

349 Dedham Street as it is close to a 1/2 mile away. Further, attendees at these "special events" such as Bat and Bar Mitzvahs and weddings, will presumably include non-members, who may not even be aware that parking is available at Countryside Elementary School or who may not be familiar with the area nor appreciate the potential impacts of parking throughout the surrounding single-family residential neighborhood. The Planning Department anticipates that at various times, Chabad members or visitors will park on the nearby residential streets.

In other Newton neighborhoods where Jewish Orthodox synagogues are located parking conflicts have proven difficult to resolve. Neighbors complain that vehicle use is prohibited only at the start of Sabbath (sunset on Friday evening), and that vehicles are parked on neighborhood streets starting in the daylight hours before Sabbath begins and then left overnight until Sabbath ends on Saturday evening. Chabad members who do not have time to leave their vehicle at home before arriving at Chabad may save time by simply driving directly to Chabad to park their vehicles. There are currently no posted parking restrictions on Rachel Road or Dedham Street that would prevent vehicles from parking all-day or overnight. The only exception is that overnight parking is not permitted on any Newton streets during the winter months. In some cases, other Newton Orthodox synagogues have tried to educate their members about this issue in the interest of avoiding neighborhood conflicts.

The petitioner is expected to provide greater detail as to the basis for the data included in the parking analysis, any proposed parking management plans/provisions, and to further address the concerns related to potential parking impacts on the surrounding neighborhood streets..

D. Relevant Site Plan Approval Criteria

1. Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets, properties or improvements, including regulation of the number, design and location of access driveways and the location and design of handicapped parking.

Available on-site parking for the proposed Chabad is limited to a nine space parking facility at the front of the structure. One handicap parking stall is provided at the front entrance. The entrance drives will roughly mirror two existing driveway entrances, but have been designed so as to allow fire-fighting equipment to enter and exit the site. Assistant Chief Proia of the Fire Department reviewed and approved the site plans (SEE ATTACHMENT "D").

Pedestrians will enter the site on a separate walkway from Dedham Street and Rachel Road via a newly installed stairway. There are sidewalks on both sides of Dedham Street and a crosswalk at the northwest intersection of Rachel Road and Dedham Street.

On those occasions when members and visiting non-members will be able to drive their vehicles to the site, questions still remain about where these vehicles will park. There are no parking restrictions on Rachel Road or Dedham Street that would prevent parking, during the day or overnight. The petitioner states that an agreement exists between the City of Newton and the Chabad to allow parking in the Countryside Elementary School parking lot during non-school hours. The arrangement is convenient for the current location of the Chabad at 229 Dedham Street, but given that the proposed Chabad will be

almost a V2 mile from parking at the Countryside Elementary • School, this is far less convenient and less likely to be used, especially by visiting non-members.

2. Provision for off-street loading and unloading of vehicles incidental to the servicing of the building and related uses on the site.

Because the proposed structure is less than 50,000 s.f in size, the petitioner is not required to provide a separate loading and unloading area. However, the petitioner is proposing a side driveway that leads to the kitchen area of the first floor to help facilitate food and other deliveries, and to provide fire department access to the structure on a second side of the building. Because of the slope on this side of the property this loading area should not be visible from Rachel Road when it is not in use. A portion of the loading area drive will be constructed of grass pavers, which will make the loading area even less visible.

3. Screening of parking areas and structures on the site from adjoining premises or from the street by walls, fences, plantings, or other means.

The petitioner's landscape plan is adequate to meet the requirements for screening, but not particularly creative or extensive. The petitioner is proposing to maintain the existing mature trees along Dedham Street and Rachel Road. If the Board chooses to approve this special permit, the Planning Department would recommend that the petitioner submit a tree preservation plan (for review and approval by the City's Tree Warden), to assure that any "Protected trees" will be cared for throughout the construction process. The majority of the new plant materials will be installed along the rear and side property lines to screen the structure from abutters. These will be placed against an existing stone wall and stockade fence. A patio proposed for the rear of the structure will not be visible to the neighbors at 22 Rachel Road and 15 Buff Circle, though it will generate noise. A covered porch on Rachel Road could be more generously screened with landscape materials given that the site at this location is elevated above Rachel Road and highly visible.

The petitioner has included a small play area at the front of the building. The Planning Department recommends adding more 2-3 ft. high plant material, along the eastern edge of the subject property to screen the play area from the abutting residential use.

The existing stone walls, which give character to the property, are in a state of disrepair. Reconstruction and on-going maintenance of these walls would be a benefit to the appearance of the property and neighborhood.

4. Adequacy of the methods for disposal of sewage, refuse and other wastes and of the methods of regulating surface water drainage.

In his memorandum, dated May 10, 2007, the Associate City Engineer offered comments regarding this subject, and requested compliance with certain procedures associated with issuance of the Utility Connection Permit (*SEE ATTACHMENT "E"*).

5. Consideration of the site design, including the location and configuration of structures and the relationship of the site's structures to nearby structures in terms of major design elements including scale, materials, color, roof and cornice lines.

The petitioner's design takes its cue from nearby residential architecture and the architect clearly has made an effort to try to blend the 12,214 sq. ft. Chabad into the surrounding neighborhood. The structure is technically one story with a basement level. The overall height is 24.2 ft., which is within the 36 ft. height limitation for the Single Residence 1 District. The design includes a cathedral-type ceiling with clearestory windows within the sanctuary area. Because the building is essentially a large square, the design includes a variety of roof configurations and roof heights to break up the overall mass and volume. These include a dormer with eyebrow windows over the sanctuary and a hipped roof over the entrance. Other residential architectural features that are used include multi-pane double hung windows, a covered porch supported by columns, and french doors at the entrance and porch area. Shingles and detailed trimwork are proposed for the exterior cladding.

6. Avoidance of the removal or disruption of historic resources on or off-site.

The existing 1820s farmhouse at 349 Dedham Street will be demolished by the Chabad. In 2004, the previous owner appeared before the Newton Historical Commission requesting demolition of the existing farmhouse. The demolition request generated considerable controversy and many residents wrote letters or contacted Aldermen to voice opposition to the total demolition of this historically significant structure. On October 29, 2004, the Newton Historical Commission voted that the farmhouse was to be preferably preserved, which prevented any demolition for a period of one year (*SEE ATTACHMENT "F"*). That demolition delay expired in October 2005 and, as such, the Chabad is free to demolish the structure at any time.

E. Relevant Special Permit Criteria

1. The specific site is an appropriate location for such use/structure.

The proposed site for the 12,214 sq. ft. structure is located in a single-family residential neighborhood. One of the biggest questions raised by this proposal is to what extent the Chabad can control the driving habits of its members and visitors during *non-Sabbath* hours, to justify a plan with only 9 of the required 70 off-street parking spaces being proposed on site.

The Chabad's location, on a corner lot at the edge of a neighborhood, rather than deep within a neighborhood, and the separation Dedham Street provides from other nearby homes, should both help prevent some conflicts from occurring. However, the Planning Department is concerned that even with the available parking at the Countryside Elementary School and the nine vehicle parking lot at the subject site, conflicts will arise in the neighborhood because of vehicles parked on neighborhood streets. ***At the public hearing, the petitioner is expected to describe the basis for the data within their parking analysis and the steps that the Chabad will take to improve the convenience and use of the lot at the Countryside Elementary School, inform non-members of its limited parking, and minimize the number of vehicles that may be parked, in some cases overnight, on the surrounding neighborhood streets.***

2. The use as developed and operated will not adversely affect the neighborhood

The lack of available on-site parking has been described at length in this memo, and may translate into additional cars parked on neighborhood streets, particularly on Rachel Road, Mosley Road, and Malubar Lane. The architecture of the proposed structure, with residential influences and a fairly low profile, should not adversely impact the neighborhood. With appropriate landscaping the intensity of the use should be at least partially screened from other residences in the neighborhood.

3. There will be no nuisance or serious hazard to vehicles or pedestrians.

Because members of the Chabad are required to walk to services during the Sabbath there are likely to be large numbers of pedestrians making use of existing sidewalks on Rachel Road and Dedham Street. There are separate pedestrian entrances into the site from Dedham Street and Rachel Road to provide for pedestrian safety. There is also an existing well-marked crosswalk located at the west side of the intersection of Dedham Street and Rachel Road. There are existing streetlights on Dedham Street; however, the crosswalk is located between two of these lights. Pedestrians walking to the Chabad will have to exercise caution when crossing, as vehicles tend to have picked up speed traveling northbound on Dedham Street. West of Rachel Road, Dedham Street is much narrower and includes a nearly 90 degree turn, which naturally keeps speeds lower. If this petition is approved the congregation should request the public works department to consider what steps may be appropriate to increase safety at this crosswalk.

The Planning Department supports the reduction of the parking lot lighting levels to below 1.0 ft. candles, because the Chabad is located in a single-family residential neighborhood and should maintain lighting that is in keeping with the neighborhood.

4. Access to the site over streets is appropriate for the types and numbers of vehicles involved.

The number of vehicle trips generated by the site should be minimal and Dedham Street has sufficient capacity to handle this volume. The Planning Department is more concerned about where vehicles will park once they have reached the site and the on-site parking lot is at capacity.

The petitioner's parking analysis states that the proposed nine-space parking lot will be adequate for morning services and weekday daily activities, but that evening activities may generate some parking on Rachel Road, and events which generate more than fifteen vehicles will make use the Countryside Elementary School parking lot. Activities that are likely to generate more than 15 vehicles include speakers and occasional events, Sunday morning service, and life cycles events such as wedding and funerals, bar and bat mitzvahs.

To increase the convenience of the parking lot at the Countryside Elementary School the petitioner proposes to use a shuttle vehicle to assist in transporting members and non-members to and from the Chabad. While the Planning Department recognizes that shuttles can be a useful tool, in this case it appears that this could be problematic unless the Chabad can control the driving habits of its members and visitors during non-

Sabbath hours. Other parking could occur on evenings when the Countryside Elementary School has its own events. Although the need for a shuttle may be somewhat irregular, which may make it difficult to maintain, the Planning Department strongly supports this initiative.

VII. SUMMARY

The location of the Chabad at the edge of the Rachel Road neighborhood should focus the activity of the Chabad away from the surrounding neighborhood. However, the Planning Department remains concerned however that the associated parking, or lack of parking, would eventually create conflicts within the neighborhood. As stated earlier in this memo, it is unclear to what extent the Chabad can control the driving habits of its members and visitors during *non-Sabbath* hours, to justify a plan with only 9 of the required 70 parking spaces being proposed on site.

The Chabad is expected to be in use, based on the petitioner's parking analysis, on nearly a daily basis, and likely generate more than nine (9) vehicles to the site at least once every week for Sunday service, and for certain meetings. Large-scale life-cycle events will also occur, albeit less frequently. To suggest that because the Jewish Orthodox religion prohibits driving on the Sabbath the need for off-street parking should be eliminated, is to disregard the other days and evenings of the week when events at the Chabad have the potential to attract more than nine vehicles to the site.

At the public hearing the petitioner should be expected to comment on the proposed use for the existing Chabad location at 229 Dedham Street, and to elaborate upon the factors that were used to prepare the parking demand study. Furthermore, the petitioner is expected to detail parking management plans/provisions, and to address potential parking impacts on the surrounding neighborhood streets.

ATTACHMENTS:

ATTACHMENT A: Board Order #319-03, dated May 25, 2003.

ATTACHMENT B: Zoning Review Memorandum dated March 23, 2007

ATTACHMENT C: Beth Menachem Chabad Parking Analysis, dated 4/2/07

ATTACHMENT D: Fire Department Memo

ATTACHMENT E: Engineering Department Memo

ATTACHMENT F: Record of Action, Newton Historical Commission, dated October 29, 2004

#319-03

CITY OF NEWTON

IN BOARD OF ALDERMEN

May 25, 2004

ORDERED:

That the Board, finding that the public convenience and welfare will be substantially served by its action and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, hereby grants the following SPECIAL PERMIT and SITE PLAN FOR WAIVERS FROM OFF-STREET PARKING REQUIREMENTS to accommodate a synagogue and residence use.

In granting this special permit and site plan approval, the Board makes the following findings:

1. The Petitioner's congregation consists of individuals and families that follow the tenets of Orthodox Judaism, which prohibit vehicular driving on the religious Sabbath (weekly - from Friday sundown until Saturday sundown) and on religious holidays.
2. The Petitioner has stated that most members of the congregation live in the neighborhood, that the nearest Orthodox Jewish synagogue is located several miles from this neighborhood, and that this synagogue will meet a community need for a place of worship and religious study for Orthodox Jewish families living in the neighborhood who need a place of worship where they can attend by walking on Sabbath and religious holidays.
3. The Petitioner's land and existing structure (the "Site") at 229 Dedham Street is located immediately adjacent to Countryside Elementary School, which presently serves Grades K – 5 and is the City's largest elementary school for the 2003-2004 school year, and which has a parking lot of more than 40 parking spaces.
4. The Site is situated within a Single Residence 2 District as created by the applicable zoning ordinance of the City of Newton and, except for Countryside School, the immediate neighborhood is occupied exclusively by single-family residences.
5. The façade of the existing structure will be largely unchanged and the structure will continue to look like a single-family structure.
6. The Petitioner may continue to use the structure from time to time as a temporary residence for the Rabbi of the congregation, a visiting Rabbi or a Rabbinical Student.

7. The Site is located within a flood plain that prevents the development of on-site parking.
8. Under the Newton Zoning Ordinance, a use for religious purposes involving a place of assembly triggers a requirement to provide parking.
9. The zoning parking requirement is a function of calculations independent of the type of place of assembly involved.
10. Based on the applicable physical characteristics and use of the Petitioner's Site, calculations made pursuant to the Newton Zoning Ordinance would normally require 46 on-site parking spaces.
11. In order to justify a waiver of this parking requirement, there need to be special circumstances in the current and anticipated parking needs at the Site that would be distinguishable from similarly situated uses.
12. Because of the Orthodox faith of the Petitioner's congregants, they may not drive to the Site on religious holidays or the Sabbath. These services are the time when traffic and parking demands would ordinarily be the greatest if the Site were not an Orthodox place of worship. For purposes of this Board Order, these times shall be called "Carless Times."
13. Driving to the Site by the Petitioner's congregants is permitted at other times. For purposes of this Board Order, these times shall be called "Driving Times."
14. During "Carless Times" the Petitioner's congregants' need for parking is limited, consisting of congregants who for health or other reasons may leave a car nearby for a period before, during and after a "Carless Time" to minimize the need to walk. Because many members of the congregation live nearby, the anticipated demand for parking for more than a day during "Carless Times" is no more than 5-10 cars.
15. During "Driving Times" the Petitioner's congregants' need for parking is also limited. These "Driving Times" involve the following situations:
 - a. *Weekday morning worship service in which a group of ten congregants is required for a minyan.* These services typically start at approximately 6:15 a.m. and end approximately 7:15-7:30 a.m. when they occur. Because of the difficulty of assembling the needed ten congregants, these services do not occur every weekday. Since the establishment of the congregation three years ago, very few weekday morning worship services have occurred. When such services occur, the anticipated demand for parking is 10-15 cars.

b. Weekday evening worship service in which a group of ten congregants is required for a minyan. These services occur around sundown when they occur. In summer, the timing means that services start well after 6 p.m. In winter, such services occur earlier, but the likelihood that a service will be held is limited because the earlier the service occurs, the more difficult it is to assemble the needed ten congregants because of work commitments. Since the establishment of the congregation three years ago, very few weekday evening services have occurred. Should such services occur, the anticipated demand for parking is 10-15 cars.

c. Periodic events in the evening, such as a lecture or class. Such events generally start after 7:00 p.m. - 7:30 p.m., and these events can be scheduled so as to avoid times when evening events are planned at the Countryside School. Such events can also occur after services on Saturday evening when no use of the School is anticipated. When such evening events occur at the Site, the anticipated demand for parking typically is 5 cars and no more than 15 cars.

d. Periodic events in the day, such as life cycle events. Since the establishment of the congregation three years ago, no such events have occurred. Because these events are not part of regular activities, the Petitioner shall use best efforts to schedule these events to avoid times when schoolchildren are being picked up or dropped off at the Countryside School.

e. Purim. If Purim falls on a school day, the Petitioner anticipates that the evening worship service will be the service with the greatest attendance. When such events occur at the Site, the anticipated demand for parking may be no more than 15-20 cars. Whenever possible, subject to availability the Petitioner will make arrangements to park at the Countryside School.

f. No plans exist for any other, regularly scheduled religious or secular events at the Site which would involve a parking demand, other than periodic deliveries to service the Site, which would be temporary, and can usually be made in the existing driveway.

16. The Petitioner has agreed that if the congregation wants to physically expand the structure, it will return to the Board and Conservation Commission for permission.
17. The Petitioner has agreed that if there is a change in circumstances that alters the demand for parking spaces or if there is an intensification of use at the Site that increases traffic, there will need to be a means of altering the supply of parking spaces or addressing the increased traffic.

18. Because of the use of the Site as a place of assembly, the Newton Fire Department has requested that a path from the foyer door across the existing driveway to Dedham Street be kept free of cars. The Petitioner has agreed to delineate this walkway in the existing driveway. The Petitioner has also agreed to stripe or otherwise mark the existing driveway on the Site to discourage parked cars from overhanging the sidewalk. The Petitioner has agreed that no stacked parking will be allowed in the driveway.
19. In order to minimize and, if possible, eliminate the need for on-street parking, the Petitioner has agreed to license up to 10 – 15 parking space from the Newton School Department at the Countryside School parking lot in accordance with the rules and regulations of the School Department, which require, among other things, removal of cars at snow times to facilitate plowing.
20. The Petitioner will coordinate with representatives of the School Department and the Countryside School to assure that its parking use of the Countryside School parking lot does not interfere with the School's use of the parking lot.
21. The Petitioner also shall ask all those attending its facilities to avoid parking on street.
22. To assist in solving any significant parking or traffic problems that might arise in the future in the neighborhood from on-site activities not now contemplated, Petitioner agrees to be part of a neighborhood council consisting of neighbors, representatives of the Countryside School and an alderman from Ward 8. The Council will provide all parties with the opportunity to discuss such problems and to work together to resolve such problems.
23. In addition, Petitioner will work with the Newton Conservation Commission to solve any concerns about floodwater retention on Site and any other applicable environmental concerns.
24. The Board finds that the conditions imposed by this Board Order will reduce to the extent possible conflicts between the use of this Site and the adjacent school use.
25. Based upon the current or anticipated uses at the Site, the Board finds that the actual parking demand is 15, not 46, parking stalls and that such parking demand is irregular when it occurs. In recognition of the steps to be undertaken by the Petitioner to accommodate the parking demands created by its use of the Site, and particularly the Petitioner's licensing of parking spaces in the Countryside School parking lot when the School does not require such spaces, the Board finds that a waiver of 15 on-site parking spaces is justified.

PETITION NUMBER: #319-03

PETITIONER: Chabad-Lubavitch, Inc.

LOCATION: 229 Dedham Street, Newton, Ward 8, Section 83, Block, 6, Lot 10, containing approximately 15,190 sq. ft. of land.

OWNER: Chabad-Lubavitch, Inc.

ADDRESS OF OWNER: 491 Commonwealth Ave., Boston, MA 02215

TO BE USED FOR: Synagogue with incidental single-family residential use for the congregation's rabbi or student assistant.

CONSTRUCTION: Wood frame

EXPLANATORY NOTE: The Petitioner is seeking approval of a special permit/site plan pursuant to Section 30-19(c)(3), Section 30-19(m), Section 30-23 and Section 30-24 for relief from the following parking regulations:

Section 30-19(c)(1) to allow the removal of one (1) on-site parking stall, with one (1) on-site parking stall to remain;

Section 30-19(c)(2) to allow a waiver of the fifteen (15) parking stalls which the Board finds is the actual parking demand for the Petitioner, rather than the forty-six (46) parking stalls which would otherwise have to be provided on site pursuant to the requirement of Section 30-19(d)(13) for places of assembly and Section 30-19(d)(1) for a single-family residential use;

Section 30-19(g)(1) to allow a waiver from the requirements that no parking stalls shall be located within setbacks in a parking facility containing less than five stalls, and that all parking stalls shall be located at least 5 feet from the street; and

Land referred to is located in Single Residence 2 District.

Approved, subject to the following conditions:

1. All buildings, parking areas, driveways, and other site features shall be located and constructed consistent with the following plans:
 - a. Site engineering plans, including the following:

- i.) "Site Plan of Land," dated March 1, 2001, prepared by Philip L. Pattison, P.E. & P.L.S.; and
 - ii.) "Revised Site Plan," Sheet SK C-1, revised 5/11/04 prepared by Fine Associates;
 - b. Architectural plans and elevations, consisting of four 24"x 36" sheets, prepared by Fine Associates, including the following:
 - i.) "Existing Upper Level Floor Plan," Drawing number A:1.1E, revisions dated 2/12/03;
 - ii.) "Existing Lower Level Floor Plan," Drawing number A:1.2E, revisions dated 2/12/03;
 - iii.) "Proposed 1st and 2^d Floor Plan," Drawing number A:1.1, revisions dated 11/12/03; and
 - iv.) "Proposed Lower Level Floor Plan," Drawing number A:1.2, revisions dated 11/12/03;
2. The Petitioner shall submit a landscape maintenance plan which details planned maintenance of existing plants and shall maintain such plants in accordance with such plan .
 3. The Petitioner shall maintain the Site exclusively for the use by an Orthodox Jewish congregation, and the parking waivers granted by this special permit may be transferred to no entity other than another Orthodox Jewish congregation using the Site in accordance with all the conditions contained in this special permit.
 4. Except on the Jewish Sabbath and religious holidays, the Petitioner shall not hold regularly scheduled religious services or classes at the Site during the drop-off and pickup hours of the Countryside School, which are defined herein as a) commencing one-half hour before the regularly scheduled start of the school day through one-half hour after the regularly scheduled start of the school day, and b) one hour before the regularly scheduled end of the school day through one-half hour after the regularly scheduled end of the school day, provided, however, that this condition shall not prohibit de minimis use of the Site in a manner consistent with the types and levels of activity that might occur at residential uses in the surrounding neighborhood.
 5. The Petitioner shall not operate any day care, nursery school or full time day school programs at the Site.

6. No group activity other than a religious service shall be held at the Site between the hours of 11:00 p.m. and 6:00 a.m. In order to minimize noise arising from its use of the Site, the Petitioner shall ask its congregants or guests to refrain from socializing outdoors after evening functions.
7. The Petitioner and the Newton Public Schools have agreed to execute the License Agreement dated April 28, 2004, on file with the City Clerk and Clerk of the Board of Aldermen, which Agreement will permit the Petitioner's congregants to park up to 10-15 cars in the Countryside School parking lot on evenings when school is not in session and/or on weekends, or at other times when School sponsored events are not scheduled at the School. The Petitioner will request and encourage its congregants who drive to the Site to use the Countryside School parking lot whenever it is available under the terms of the license.
8. The Petitioner acknowledges that the waiver of off-street parking provided by this special permit shall not constitute any waiver by the City of Newton of its enforcement rights against the Petitioner and its congregants with respect to the duly established and uniformly enforced parking ordinances and regulations of the City of Newton, including but not limited to no parking zones, limited parking zones, snow emergencies and limitations on overnight parking.
9. The Petitioner shall not oppose the expansion of school drop-off zones, also known as "Blue Zones, on Dedham Street in the vicinity of the Site if the expansion of the drop-off zone is requested by the School Department and/or the Traffic Council.
10. With the exception of emergency repairs, the Petitioner shall use its best efforts to restrict deliveries by commercial vehicles to the Site to hours between 9:00 a.m. and 5:00 p.m., and any regularly scheduled deliveries to the Site shall be scheduled between 9:00 a.m. and 5:00 p.m.
11. The Petitioner shall not permit its congregants to park vehicles in the driveway that overhang into the sidewalk area and the driveway will be striped or otherwise marked accordingly . There shall be no stacked parking in the driveway.
12. The Petitioner shall maintain and keep a walkway open at all times adjacent to the driveway so that occupants of the building will have unimpeded access from the foyer door directly to Dedham Street. Such walkway shall be delineated in the existing driveway by the use of tire stops, planters, or other dividers of some type. The Petitioner shall maintain the driveway markings and walkway delineations required by this condition.
13. Not more than seventy-five (75) people, or such lower number as may be mandated by the State Fire Code or State Building Code, will utilize the Site at any one time.

14. The Petitioner shall not use the Site for regular community center types of community activities, such as weekly or monthly bingo, bridge, etc.
15. All plans for alteration of the Site shall comply with applicable Fire, Health and Building Codes. There shall be no alterations to the façade on the front of the existing house except for modifications shown on plans that have been submitted and approved herewith.
16. Any exterior lights shall be residential in style and scale; shall be chosen and placed so as to have minimal impact on neighborhood residents; and shall be subject to the review and approval of the Director of Planning and Development. No illumination from exterior lights shall "wash onto adjacent properties.
17. The Petitioner shall arrange for private collection of all trash, garbage or yard waste generated at the Site and shall store all trash/garbage inside the building on the Site. No trash collection shall occur on the weekends or before 7:00 a.m. in the morning.
18. The Petitioner shall not add any additional floor area or stories to the existing building.
19. If the Commissioner of Inspectional Services finds that there is a change in the circumstances upon which the Board granted this special permit due either to:
 - a) a change in the demand for parking spaces due either to the loss of the license to use parking spaces at the Countryside School parking lot or an intensification of use of the Site during "Driving Times"; or
 - b) an intensification of use at the Site during "Driving Times" that results in an increase in traffic,the Petitioner shall use its best efforts to address the need for replacing or increasing the number of parking spaces or of reducing the traffic generated by uses at the Site during "Driving Times." Such steps may include, but are not be limited to, Neighborhood Council discussions of how replacement parking, increased parking or reductions in traffic can be accomplished. In addition, such steps may include the Petitioner returning to the Board of Aldermen for additional approvals or amendment of this Special Permit if so required by the Commissioner of Inspectional Services.
20. The Petitioner shall cooperate in the establishment of a Neighborhood Council. The Neighborhood Council shall consist of two (2) representatives from the Petitioner, two (2) neighborhood representatives, an alderman from Ward 8 and the Principal or her/his designee from the Countryside School. As soon as possible after the date of approval of this Special Permit, the Petitioner shall appoint its representatives and the Board of Aldermen shall appoint the neighborhood representatives.

The purpose of the Neighborhood Council shall be to discuss issues which jointly affect the neighborhood, the Petitioner and Countryside School such as, parking, traffic, noise, etc., and to attempt to find consensus on the ways of mitigating such impacts upon the neighborhood, the Petitioner, or Countryside School. Failure of the Council to reach consensus on how to mitigate any issue shall not prevent any party from any activity they are lawfully entitled to pursue.

The Neighborhood Council shall meet at least two (2) times per year, and may meet more frequently at its discretion. The alderman from Ward 8 will call the first meeting of the Council. The City Clerk and the Clerk of the Board of Aldermen shall receive advance notice as to the dates, times and locations of all neighborhood council meetings. The Council shall file annual reports of its activities with the City Clerk and the Clerk of the Board of Aldermen.

21. The Petitioner shall work with the Newton Conservation Commission to solve any concerns about floodwater retention on Site and any other applicable environmental concerns.
22. As soon as possible following approval of this Special Permit, the Petitioner shall apply for a building permit. No building permit shall be issued pursuant to the SPECIAL PERMIT and SITE PLAN APPROVAL until:
 - a. The Petitioner shall have submitted a final landscape maintenance plan to the Director of Planning & Development, in accordance with condition #2, for review and approval.
 - b. The Petitioner shall have recorded with the Registry of Deeds for the Southern District of Middlesex County a Certified copy of this Board Order granting this SPECIAL PERMIT/SITE PLAN REVIEW FOR WAIVERS FROM OFF-STREET PARKING REQUIREMENTS, with appropriate reference to the book and page of the recording of the Petitioner's title deed or notice of lease endorsed thereon.
 - c. A certified copy of such recorded notice shall have been filed with the City Clerk, the Inspectional Services Department and the Department of Planning and Development.
23. No final occupancy permit for use of the Site as a place of assembly shall be issued by Inspectional Services until the Petitioner has satisfied the requirements of the State Building Code and Fire Code, as well as the conditions of this Board Order.

Under Suspension of Rules

Readings Waived and Approved

19 yeas 3 nays (Ald. Gentile, Lennon, and Salvucci) 1 absent (Ald. Samuelson) 1 vacancy

The undersigned hereby certifies that the foregoing copy of the decision of the Board of Aldermen granting a SPECIAL PERMIT/SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the CITY CLERK on May 28, 2004. The undersigned further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT/SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the City Clerk.

ATTEST:

(SGD) EDWARD G. ENGLISH, City Clerk

Clerk of the Board of Aldermen

I, Edward G. English, as the Clerk of the Board of Aldermen and keeper of its records and as the City Clerk and official keeper of the records of the CITY OF NEWTON, hereby certify that Twenty days have elapsed since the filing of the foregoing decision of the Board of Aldermen in the Office of the City Clerk on _____ and that NO APPEAL to said decision pursuant to M.G.Laws Chapter 40, Section 17 has been filed thereto.

ATTEST:

(SGD) EDWARD G. ENGLISH, City Clerk

Clerk of the Board of Aldermen

Zoning Review Memorandum

Dt: March 23, 2007

To: Rabbi Chaim Prus, Congregation Beth Menachem h abad
Albert Fine, Architect, Fine Associates

Fr: Juris G. Alksnitis, Chief Zoning Code Official

Cc: Michael Kruse, Director, Department of Plannin and Development
John Lojek, Commissioner of Inspectional Services

Re: Petition for a special permit/site plan approval and parking waivers pertaining to proposed new place of worship.

Applicant(s): Congregation Beth Menachem Chabad

Site: 349 Dedham St.

SBL: Section 83 Block 36A, Lot 1

Zoning: SR-1

Lot Area: 33,697sq. ft.

Current use: Single fam. dwelling

Prop. use: Synagogue facility

Background:

The petitioner seeks to build a new synagogue facility in place of an existing single family dwelling, which will be demolished. Once complete, the applicant intends to relocate all activities and operations from its current location at 229 Dedham St. The petitioner seeks a special permit/site plan approval and related parking waivers associated with this new single use religious institution.

Administrative determinations

1. The applicant, an orthodox Jewish congregation is a religious non-profit entity normally subject to Section 30-5(a)2) administrative site plan review. A single-use institution, the project is subject to Section 30-15, *Table 2 – Dimensional Regulations for Religious and Non-profit Educational Uses (Table 2)*, and Section 30-19, *Parking and Loading Facility Requirements*. However, based on submitted plans, the applicant needs zoning relief both from the Board of Aldermen and from the Zoning Board of Appeals, as discussed below.
2. The proposed site plan locates the building so as to meet most Table 2 dimensional controls. While it is noted that the two-foot roof overhang is consistent with Section 30-15(e), certain building components on the east side encroach on the 20 ft. side setback. These include the external stairs from the basement level to ground level and then to the upper level, which involve a retaining wall structure, columns, and roof, placed at approximately 15 ft. from the side lot line. In addition, another adjacent set of external stairs from the parking area to the side-yard come to within 10 ft. of the same side lot line while a proposed new wall connects with the existing stone wall along the side lot line. The character and size of these structures

exceed the intent of Section 30-15(e), which accommodates bulkheads and steps within setbacks, but not major building components or related structures. The applicant may wish to discuss these elements with the Commissioner of Inspectional Services for additional guidance. As a result, the proposed design necessitates dimensional variances from the Zoning Board of Appeals. Moreover, the as proposed FAR exceeds the applicable limit of 0.2, this necessitates an additional variance from the Zoning Board of Appeals. While the proposed FAR shown on plan is 0.36, the applicant may wish to revisit this figure to see if calculations used are consistent with the definition provided in Section 30-1 for *Floor Area Ratio* associated with nonresidential structures.

3. Plans and information provided by the applicant indicate that the lower level qualifies as a basement. In addition, the overall structure is well within the 36 ft. height and 3 story limits.
4. *Section 30-19(d)(13)* sets forth the applicable parking requirements pertaining to overall parking supply while *Section 30-19(h)(2)c* establishes the required number of Handicapped parking stalls. With regard to HP spaces, one (1) is required and provided. Submitted plans anticipate that 67 spaces would be necessary for sanctuary seating of 200, based on an anticipated specific seating layout contemplated for the sanctuary and social hall together. While the hypothetical seating capacity of the subject area might accommodate approximately 236 seats based on a building code factor of 15 sq. ft./seat, the applicant's architect has indicated that architectural plans will be prepared for 200 maximum seats. In addition, as the applicant's architect has stated that the lobby area is not intended for sanctuary overflow seating or other events requiring concurrent seating, this space is considered accessory to the primary use and does not generate a separate parking requirement.

Three offices on the first floor with a total floor area of approx. 519 sq. ft. require an additional three parking spaces per *Section 30-19(d)(10)*. Two children's rooms are provided on the lower level for accessory childcare purposes and will be staffed by volunteers. While a play area is indicated on plans, the applicant has stated that no separate pre-school or childcare program will be conducted. Should this change in the future, additional review of this aspect would be required. The applicant does not anticipate conducting religious education classes at this time. It is noted that two Mikveh rooms on the lower level have a maximum capacity of three users along with one attendant at any one time, and would be available for use by persons not members of this congregation as well. However, the applicant indicates that these rooms are typically utilized for purifying rituals ahead of religious services or special occasions primarily by member congregants. As a result, they are considered accessory to the primary use and do not generate a separate parking requirement.

The above suggests that at maximum use, 70 spaces would be required [200 seats/3 = 67 + 3 office]. Since only 9 spaces are provided on site, a waiver of 61 spaces would be necessary pursuant to *Section 30-19(m)*. The applicant states that their religious practices preclude use of motor vehicles on high holy days and Sabbath, and that therefore their actual need for parking is less than that required by the Newton Zoning Ordinance. It is the petitioner's responsibility to provide such building use and facility operational data, vehicle use data, and historical information as to congregational religious practices, as is deemed necessary and acceptable by the Board of Aldermen to justify the proposed waiver.

5. *Section 30-19(h)* and (j)(2) establish the parking facility design and related requirements for parking facilities of this size. The proposed layout indicates eight (8) standard and one (1)

handicapped parking stall and a driveway system conforming to applicable dimensional requirements.

6. *Section 30-19(i)* establishes the perimeter and interior landscaping requirements applicable to parking lots. While perimeter landscaping is required for a parking facility having more than 5 parking stalls, interior landscaping is not required unless a parking facility has 20 or more stalls. The Planting Plan submitted by the applicant suggests the perimeter screening requirements appear to be satisfied. The applicant has also provided information pertaining to compliance with the Tree Ordinance and is responsible obtaining such approvals as necessary from the Tree Warden.
7. *Section 30-19(j)(1)* establishes illumination requirements applicable to parking lots of this size. As the submitted Site Lighting Plan indicates parking lot lighting levels less than the 1 ft.-candle requirement, this will necessitate a waiver from the Board of Aldermen per *Section 30-19(m)*. In addition, the synagogue is responsible for meeting the requirements of Ordinance X-142, *Light Ordinance*, as set out in sections 20-23 through 20-28 pertaining to light trespass and light pollution in relation to the parking area as well as to lighted stair and patio areas.
8. *Sections 30-19(k) & (1)*, establish the applicable bicycle parking and off-street loading requirements, respectively. Although proposed plans indicate fewer than 20 parking stalls, and not triggering the requirement for bicycle spaces, two bicycle parking spaces are provided. In addition, as proposed plans show a building with less than 50,000 sq. ft. of gross floor area, off-street loading requirements are not applicable.
9. *Section 30-20* establishes the requirements pertaining to signs. The applicant has elected not to address signage at this time. Should the applicant wish to obtain signs in the future, it is the responsibility of the applicant to meet the applicable sign provisions of this section, including sign permitting procedures.
10. Records indicate that the existing single family structure at 349 Dedham St. was originally built circa 1820s and is considered a historic resource within the City. While the Record of Action dated October 29, 2004 of the Newton Historical Commission found this property in the category of Preferably Preserved, the demolition delay period expired on October 28, 2005. As noted above, the applicant intends to demolish the structure and build the subject synagogue in its place.
11. It is noted that some submitted plans lack the respective stamps and signatures of applicable registered professionals preparing the plans and certifying required calculations. The applicant is responsible for providing stamped and signed plans not later than at the time of filing their petition for special permit with the Clerk of the Board of Aldermen.
12. See "Zoning Relief Summary" below.

<i>Ordinance</i>	<i>Zoning Relief Summary</i>	
	<i>Building</i>	<i>Action Req</i>
	See variances, below	
	<i>Parking</i>	
30-9(d)(10)&(13) 30-19(d) 30-19(m)	Approval of waiver to allow applicant to reduce required parking from 70 spaces by 61 spaces to net total 9 spaces.	X

<i>Ordinance</i>	<i>Zoning Relief Summary (cont.)</i>	<i>Action Req</i>
	Parking cont	
30-90)(1) 30-19(m)	Approval of waiver to allow applicant to reduce parking lot lighting level below 1 ft.-candle.	X
	Signs	
30-20	Signs not proposed at this time.	N/A
	Site	
30-23	Approval of Site Plan and Planting Plan	X
	Special Permit	
30-24(d)	Approval of Special Permit.	X
	Variances ZBA	
30-15, Table 2	Variance to reduce side setback from 20 ft. to est. 15 ft. to allow the multi-level roof-covered stairs from the basement to the upper level.	X
30-15, Table 2	Variance to reduce side setback from 20 ft. to est. 10 ft. to allow the external stairs leading from the parking area level to the side yard and any further reduction to the extent necessary pertaining to new walls.	X
30-15, Table 2	Variance to increase FAR from 0.2 to approximately 0.36.	X

Plans reviewed:

- Plan titled "Plan of Land in Newton, MA, 349 Dedham St., Preliminary", dated Nov. 28, 2006, prepared by Everett M. Brooks Co., Surveyors and Engineers, 49 Lexington St., West Newton, MA 02465, stamped and signed by Bruce Bradford, Professional Land Surveyor.
- Plan titled "Plan of Land in Newton, MA, 349 Dedham St.", dated Nov. 28, 2006, last revised 2/27/07, prepared by Everett M. Brooks Co., Surveyors and Engineers, 49 Lexington St., West Newton, MA 02465, stamped and signed by Bruce Bradford, Professional Land Surveyor.
- Plan set titled "Beth Menachem Chabad, 349 Needham St., Newton, MA", dated 12/8/06, prepared by Fine Associates, 192 South St., Boston, MA 02111, stamped and signed by Albert D. Fine, registered architect consisting of the following:
 - Dwg. AS 1.01 – Architectural Site Plan, Roof Plan
 - Dwg. A 1.01 – Lower Floor Plan
 - Dwg. A 1.02 – Upper Floor Plan
 - Dwg. A 2.01 -- Building Elevations
 - Dwg. A 2.02 -- Building Elevations
- Plan titled "Beth Menachem Chabad, 349 Needham St., Newton, MA", Drawing #AS 1.02, Site Lighting Plan, dated 12/08/06, prepared by Fine Associates, 192 South St., Boston, MA 02111, bearing no stamp or signature of a registered professional.
- Plan titled "Beth Menachem Chabad, 349 Needham St., Newton, MA", Drawing # L-1, Planting Plan, dated 3/2/07, prepared by Fine Associates, 192 South St., Boston, MA 02111, and Ray Dunetz, Landscape Architecture, 12 Pond St., No.1, Boston, MA 02130, bearing no stamp or signature of a registered professional.

MEMORANDUM

Project: Beth Menachem Chabad – 349 Dedham Street
 Project No: 200514
 To: Jean Fulkerson, Principal Planner; David Koses, Transportation Planner
 Cc: Rabbi Chaim Prus, Fred Chanowski
 From: Albert Fine
 Date: 04.02.07
 Re: **Parking Analysis**

Architecture and Interiors

Beth Menachem Chabad (BMC) has existed at 229 Dedham Street, next to Meadowbrook and Countryside Elementary Schools since 2001. Its building is a two-story, 2500 sf structure, formerly a single-family residence. The synagogue contains a sanctuary which seats 75 people, one bedroom, a small kitchen, a lower-level multi-purpose room that seats about 35, and an office.

BMC is an Orthodox congregation, therefore a walking congregation, and has about 70 member families, which average 3-4 people per family. Synagogue activities include regular services, holiday services, life cycle events such as bar and bat mitzvahs which can fit on the premises, occasional speakers, and committee meetings.

The congregation has purchased 349 Dedham Street and has proposed construction of the presented facility because the 229 Dedham Street site is inadequate for its needs. The full congregation cannot attend holiday service, and life cycle events for more than 75 people go to other venues for the same reason.

Under an agreement with the City of Newton, events which generate more than five or six cars use the Countryside parking lot when the school is not in session. There is currently no arrangement for a van or shuttle vehicle as the lot is so close to the synagogue.

Current Usage at 229 Dedham Street

The current building is used as follows. It should be noted that, as a walking congregation, there are a significant number of member families who live close to the building.

- | | |
|---------------------------------|-----------------|
| 1. <u>Daily Morning Service</u> | 3-5 cars |
| Approx. 7:30-8:30 am | 8-10 people |
| Monday – Friday | Members carpool |

192 South Street
Boston, MA 02111

Tel: 617.695.9171
Fax: 617.695.9360

Email:
afine@afine-associates.com

2. Daily Office Activity 1-2 cars for an hour or two
There is currently no regular presence in the building on a daily basis. The Rabbi or an officer will occasionally be on site for a business activity.
3. Daily Evening Activity
Monday — Thursday 2-5 cars, 1-2 people
There are currently no regular evening activities. There can be occasional committee meetings, bar/bat mitzvah practice and meetings with the Rabbi.
4. Speakers, Occasional Events
There have been occasional (not more than once per month) speakers and family events which have generated 25 to 75 participants. The Countryside lot has been used.
5. Friday Evening Service 2 cars, parked before sunset
Friday evening service begins the Sabbath and is attended by 10 to 20 people. Vehicle use is not permitted and congregants walk to the synagogue. Two cars are parked in the driveway overnight.
6. Saturday Morning Service
Saturday morning service continues Sabbath observance and is attended by , on average, 20-25 people. Vehicle use is not permitted and congregants walk to the synagogue. (Once every couple of months a Saturday morning service may be at capacity.)
7. Sunday Service
9 am — 11 am± 5-7 cars
Sunday morning service is attended by 10-15 people. The Sabbath has ended, so some people walk and some people drive.
8. Holidays
Holidays include, but are not limited to, Rosh Hashanah, Yom Kippur, Passover, Puim, Shavuot and Sukkot. Generally they are 1-2 day events, and services will be near or at capacity. Vehicle use is not permitted and congregants walk to the synagogue. Services last about 2-3 hours. Two cars may be parked in the driveway.
9. Life Cycle Events 25 cars
2-3 hours, once monthly Countryside lot is used
Life cycle events include bar and bat mitzvahs, weddings, funeral receptions and other family events. Such events have occurred approximately once monthly and have been limited to 75 people. (Events that are greater than 75 people have gone to other venues. There have been several of these per year.) Congregants walk and drive. The Countryside lot is used.

192 South Street
Boston, MA 02111

Tel: 617.695.9171
Fax: 617.695.9360

Email:
afineafine-associates.coni

Proposed New Building at 349 Dedham Street

BMC is proposing the construction of a 12,400 sf, two-story building to support the needs of their congregation. The program includes a sanctuary / social hall which can seat 204 people for services. The room seats 176 people in tables and chairs. There are three small kitchens (meat, mild and Passover), two offices, a conference room, and a lobby on the first floor. The lower level includes two children's rooms (for supervised care during services, by age group), men's and women's mikvahs (ritual baths), and mechanical space. The facility contains no classrooms and will not be used for a school or legal daycare.

The proposed facility will have a nine-space parking lot. The lot will be used for morning service and weekday daily activities, which it will be adequate for. Some evening activities may generate some parking on Rachel Road. Events which generate more than fifteen cars will use the Countryside lot. A shuttle vehicle will be made available for those who need transportation from the Countryside lot.

The projected use and parking is as follows:

1. Daily Morning Service 5-7 cars in the parking lot
Approx. 7:30-8:30 am 10-15 people
Monday – Friday Members will carpool
2. Daily Office Activity 1-2 cars in the parking lot for 4-5 hours
The Rabbi and a part-time assistant will be on site for a short business day.
3. Daily Evening Activity 3-7 cars in the parking lot
Monday – Thursday
There will be occasional committee meetings, small group meetings, bar/bat mitzvah practice and meetings with the Rabbi. There is likely to be one private mar/bat mitzvah practice per week and a small group meeting once a week.
4. Speakers, Occasional Events
There will be occasional (once per month) speakers and family events which will generate 25 to 150 participants. The Countryside lot will be used. These events are most likely to occur on a Thursday evening or a Sunday.
5. Friday Evening Service 9 cars in the parking lot
Friday evening service begins the Sabbath and will be attended by 15 to 25 people. Vehicle use is not permitted and congregants walk to the synagogue. Nine cars will park in the driveway overnight.
6. Saturday Morning Service 9 cars in the parking lot
Saturday morning service continues Sabbath observance and will be attended by, on average, 25-150 people. Vehicle use is not permitted and congregants walk to the synagogue. (Once every couple of months a Saturday morning service may be near capacity.)

Architecture and Interiors

192 South Street
Boston, MA 02111

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afineafine-associates.com

7. Sunday Service

9 am — 11 am±

9 cars in the parking lot

Sunday morning service will be attended by 15-50 people, on average. The Sabbath has ended, so some people walk and some people drive. This service, if it generates more than 15 cars, will use the Countryside lot. If this day coincides with a holiday, there will be nine cars in the synagogue parking lot, however all congregants will be walking.

8. Holidays

200 people, 9 cars in the parking lot

Holidays include, but are not limited to, Rosh Hashanah, Yom Kippur, Passover, Puim, Shavuot and Sukkot. Generally they are 1-2 day events, and services will be near or at capacity. Vehicle use is not permitted and congregants walk to the synagogue. Services last about 2-3 hours. Nine cars will park in the synagogue parking lot.

9. Life Cycle Events

50-175 people, 15-50 cars

2-3 hours, once monthly

Countryside lot will be used

Life cycle events include bar and bat mitzvahs, weddings, funeral receptions and other family events. Such events will occur approximately once monthly and may have up to 175 people. Congregants will walk and drive. The Countryside lot will be used.

10. Mikvah Usage

2-6 cars a day, 1 hour per visit

The mikvahs are ritual baths generally used one person at a time during weekdays. Privacy is a factor, particularly for women, so usage by several people concurrently is not expected.

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David B. Cohen
Mayor

CITY OF NEWTON, MASSACHUSETTS
FIRE DEPARTMENT HEADQUARTERS

1164 Centre Street, Newton Center, MA 02459-1584
Chief: (617) 796-2210 Fire Prevention: (617) 796-2230
FAX: (617) 796-2211 FIVE11: 911



Joseph E. LaCroix
Chief

Alderman George Mansfield
Land Use Committee
Newton City Hall
1000 Commonwealth Avenue
Newton Centre, Ma 02459

Re: 349 Dedham Street

Dear Mr. Mansfield,

The site plans for new Temple Chabad at 349 Dedham. Street have been reviewed and approved by the Newton Fire Department for site accessibility and water.

The circular driveway has been engineered for Fire Department accessibility. There is also an 18' driveway on the Rachel Road side of the building with a no parking provision. Because a fire hydrant is already located opposite Rachel Road, an additional fire hydrant will not be required.

Sincerely,

A handwritten signature in black ink, appearing to read "A/C Proia", written over a horizontal line.

Bruce A. Proia
Assistant Chief of Operations

Cc: Nancy Radzevich, Chief Planner, Department of Planning and Development, City of Newton
Benyarnin Ber, Fine Associates
Deputy Chief Thorne, Fire Prevention Division

**CITY OF NEWTON
ENGINEERING DIVISION**

MEMORANDUM

To: Alderman George Mansfield, Land Use Committee Chairman

From: John Daghlion, Associate City Engineer

Re: Special Permit – 349 Dedham Street

Date: May 10, 2007

CC: Lou Taverna, PE City Engineer (via email)
Nancy Radzevich, Chief Planner (via email)
Linda Finucane, Associate City Clerk (via email)
Jean Fulkerson, Sr. Planner (via email)

In reference to the above site, I have the following comments for a plan entitled:

*Site Plan of Land in
Newton, MA
349 Dedham Street
Prepared by: Everett Brooks Company
Dated: April 4, 2007*

Drainage:

1. The drainage analysis is correct for the City of Newton's 100-year storm event.

Sewer & Water:

1. The existing water & sewer services to the dwelling shall be cut and capped at the main and be completely removed from the site and properly back filled. The Engineering Division must inspect this work; failure to having this work inspected my result in the delay of issuance of the Utility Connection Permit.

Sight Distance Egress:

1. When the existing retaining wall along Dedham Street is reconstructed, it would be preferred that if it is landscaped, the selection of the plants be small, so that when they are matured they do not create a sight distance issues for motorists exiting the property.

General:

1. All tree removal shall comply with the City's Tree Ordinance.
2. Are the dwellings to be serviced by gas, if so the locations of the services need to be indicated so that there are no conflicts with between the proposed utilities.
3. The contractor is responsible for contacting the Engineering Division and scheduling an appointment 48 hours prior to the date when the utilities will be made available for an inspection of water services, sewer service, and drainage system installation. The utility is question shall be fully exposed for the inspector to view; backfilling shall only take place when the City's Inspector has given their approval.
4. The applicant will have to apply for Street Opening, Sidewalk Crossing, and Utilities connecting permits with the Department of Public Works prior to any construction.
5. The applicant will have to apply for a Building permits with the Department of Inspectional Service prior to any construction.
6. Prior to Occupancy permit being issued, an As-Built Plan shall be submitted to the Engineering Division in both digital format and in hard copy. The plan should show all utilities and final grades, any easements and final grading.
7. If a Certificate of Occupancy is requested prior to all site work being completed, the applicant will be required to post a Certified Bank Check in the amount to cover the remaining work. The City Engineer shall determine the value of the uncompleted work.

If you have any questions or concerns please feel free to contact me @ 617-796-1023.

City of Newton



David B. Cohen
Mayor

Department of Planning and Development

Michael J. Kruse, Director

1000 Commonwealth Avenue
Newton Centre, MA 02459-1449
Tel: (617) 552-7135 Fax: (617) 965-6620
Email: mkruse@ci.newton.ma.us

RECORD OF ACTION

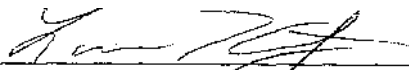
DATE: _____ **October 29, 2004**

SUBJECT: _____ **349 Dedham Street – Demolition Review – House**

At a scheduled meeting and public hearing on October 28, 2004 the Newton Historical Commission, by a vote of 7 to 0, passed the following motion:

RESOLVED to find the ca. 1820s farmhouse with its later Colonial Revival style detailing and additions to be **Preferably Preserved** as it is an old and historic resource within the City which has retained its original location and late nineteenth century detailing.

Voting in the Affirmative: John Rodman, Chairman; Allen Johnson, Rodney Barker,
Donald Tellalian, Donald Lang, Charles McMillan,
William Roesner



Lara Kritzer, A cretary

Newton Historical Commission
Lara Kritzer, Preservation Planner
Email: lkritzer@ci.newton.ma.us

Minutes 10/28/04